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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/459,138	12/10/1999	LARRY K. JOHNSON	7040R	9687

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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL TECHNICAL CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER

HARAN, JOHN T

ART UNIT

PAPER NUMBER

1733

DATE MAILED: 09/11/2003

24

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/459,138

Applicant(s)

JOHNSON ET AL.

Examiner

John T. Haran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-16 is/are allowed.
- 6) ☒ Claim(s) 1,2,5,7-9,11 and 12 is/are rejected.
- 7) ☒ Claim(s) 3,6 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. This Office Action is in response to the response filed on 8/8/03.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 4-5, 7-9, and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson'638 (US 5662638) in view of Kohler (US 2393541) and Heller (US 3574031).

The current Application is a CIP and the claims are not supported by any of the parent applications because the "electromagnetic field responsive member" language is not supported by the parent applications. Accordingly, the effective filing date of the current application is the actual filing date, 10 December 1999, and Johnson'638 therefore qualifies as prior art.

Regarding claims 1, 4, and 12, Johnson'638 teaches a method of making a flangeless seam by joining two members of a disposable article (Abstract).

Johnson'638 teaches the use of joining means and a barrier member with the claimed configurations in the process of making the flangeless seam (Figs. 1-12). While Johnson'638 indicates any suitable joining means may be used (col. 12, lines 17-21), Johnson'638 does not recite joining means comprising an electromagnetic field responsive member and the claimed step of applying an electromagnetic field.

Kohler and Heller provide clear motivation for using an adhesive having susceptor particles therein, the susceptor particles being heated by an electromagnetic field to activate the adhesive. Kohler teaches that such adhesive systems may be heated to the exact temperature desired without danger of overheating or burning and that heating is limited to the bonding interface, thereby reducing the power requirements and avoiding damage to the substrates being bonded (page 1, col. 2, lines 35-50; page 2, col. 1, lines 40-50). Heller teaches that such adhesive systems are particularly suitable for bonding thin films where flexibility must be maintained, the benefits including rapid and uniform generation of heat over the entire surfaces to be bonded (col. 3, lines 20-52; col. 4, lines 15-50). It would have been obvious to one having ordinary skill in the art at the time of the invention to provide Johnson'638 with an adhesive/susceptor joining means and the claimed step of applying an electromagnetic field because one having ordinary skill in the art would have been motivated to obtain the above stated benefits taught by Kohler and Heller.

Johnson'638 also does not suggest joining without the barrier member. The barrier member prevents the bonding of opposing proximal and distal portions that are not meant to be bonded (Column 15, lines 43-45). Johnson'638 is silent towards how or why these portions would be bonded if the barrier member was not present, but it appears that the joining means heats the surrounding areas and causes unwanted bonding. Kohler teaches that the advantages of using an adhesive with susceptor particles heated by an electromagnetic field include controlling the bonding temperature to avoid overheating and limiting the heating to the bonding interface. One skilled in the

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art would have readily appreciated when using an adhesive with susceptor particles in the method of Johnson'638 there is no need for the barrier member because such adhesives have the advantage of localized, controlled heating of the bond interface as taught in Kohler. One skilled in the art would have appreciated that bonding the portions to be joined with such an adhesive so as to avoid bonding portions that are not meant to be joined by controlling the heating and placing the adhesive only in the area to be bonded, thereby eliminating the need for the barrier member. It would have been obvious to one of ordinary skill in the art at the time the invention was made to one of ordinary skill in the art at the time the invention was made to provide Johnson'638 with an adhesive/susceptor joining means and the claimed step of applying an electromagnetic field because one having ordinary skill in the art would have been motivated to obtain the above stated benefits taught by Kohler and Heller and furthermore to perform the joining without a barrier member since the electromagnetic heating achieves controlled, localized heating only of the bonding interface, thereby eliminating the need for the barrier member, as suggested in Kohler.

Additionally it is noted that claims 1 and 12 do not require the second member to be in a folded configuration as required in claim 4, and as such the configuration claimed by claims 1 and 12 when performing the joining read on Figure 4 of Johnson'638 and Figure 3A of the present application. One skilled in the art would have readily appreciated joining the members together with the adhesive with susceptor particles by heating with an electromagnetic field in the claimed configuration and that no barrier member is necessary because there is no folded portion of the second

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member that is not to be bonded, as claimed in claim 4 and illustrated in Figure 3 of Johnson'638 and Figure 3 of the present application.

Regarding claims 2, 7, and 9, Kohler and Heller indicate that the adhesive may be applied as a film or a liquid (Kohler, page 3, col. 1, lines 1-10; Heller, col. 4, lines 15-75, col. 6, lines 10-15). Integrally connecting the adhesive/susceptor to the film of Johnson'638 prior to folding is the expected manner of applying the adhesive/susceptor system. Furthermore, one of ordinary skill would have been expected to appreciate that applying a film after folding is an equivalent manner of providing an adhesive at the desired location. Only the expected result of providing an adhesive at the desired location has been achieved.

Regarding claim 5, the limitation of pulling apart to form the flangeless seam is clearly taught by Johnson'638 (Figs. 3 and 4).

Regarding claim 8, the limitation of having more than one fold is taught by Johnson'638 (See Fig 3).

Regarding claim 11, Kohler teaches using metallic powder (Column 2, lines 30-32) and Heller teaches using metallic powder or a metallic screens (Column 1, lines 42-43) as electromagnetic field responsive members and it would have been obvious to use the type of electromagnetic field responsive members taught in Kohler and Heller in the method of Johnson'638 as modified above.

Allowable Subject Matter

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4. Claims 3, 6, and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
5. Claims 13-16 are allowed.
6. Claims 6 and 13-16 are allowable for the reasons provided on pages 5 and 6 of the office action mailed 05 June 2001.
7. Claims 3 and 10 are allowable because the prior art of record fails to suggest the claimed method including a step of folding the first member about both the electromagnetic filed responsive member and at least a portion of the second member.

Response to Arguments

8. Applicant's arguments filed 8/8/03 with have been fully considered but they are not persuasive with respect to claims 1-2, 4-5, 7-9, and 11-12.

Johnson'638 teaches using any known joining means to bond the materials together. Kohler and Heller teach the known joining means of using an adhesive having susceptor particles therein, the susceptor particles being heated by an electromagnetic field to activate the adhesive. Furthermore, Kohler teaches that the advantages of using an adhesive with susceptor particles heated by an electromagnetic field include controlling the bonding temperature to avoid overheating and limiting the heating to the bonding interface. One skilled in the art would have been amply motivated to use known joining means such as the adhesive with susceptor particles taught in Kohler and Heller in light of the teaching in Johnson'638 to use any known joining means. Additionally, one skilled in the art would have readily appreciated when using an

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adhesive with susceptor particles in the method of Johnson'638 there is no need for the barrier member because such adhesives have the advantage of localized, controlled heating of the bond interface as taught in Kohler. One skilled in the art would have appreciated that bonding the portions to be joined with such an adhesive so as to avoid bonding portions that are not meant to be joined by controlling the heating and placing the adhesive only in the area to be bonded, thereby eliminating the need for the barrier member. There is no conjecture or impermissible hindsight associated with this line of reasoning.

Furthermore it is noted that only claim 4, actually claims a configuration that would possibly present a need for a barrier member. It is noted that claims 1 and 12 do not require the second member to be in a folded configuration as required in claim 4, and as such the configuration claimed by claims 1 and 12 when performing the joining read on Figure 4 of Johnson'638 and Figure 3A of the present application. One skilled in the art would have readily appreciated joining the members together with the adhesive with susceptor particles by heating with an electromagnetic field in the claimed configuration and that no barrier member is necessary because there is no folded portion of the second member that is not to be bonded, as claimed in claim 4 and illustrated in Figure 3 of Johnson'638 and Figure 3 of the present application. However, regardless of the claimed configuration it would still be obvious to eliminate the barrier member as explained above.

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Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John T. Haran** whose telephone number is **(703) 305-0052**. The examiner can normally be reached on M-Th (8 - 5) and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael W. Ball can be reached on (703) 308-2058. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.


John T. Haran


Michael W. Ball
Supervisory Patent Examiner
Technology Center 1700